

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ZACKARY ELLIS SANDERS,

Defendant.

Case No. 1:20-cr-00143
Honorable T.S. Ellis, III

Pretrial conference: October 15, 2021
Trial: October 19, 2021

MR. ZACKARY ELLIS SANDERS'S CORRECTED REVISED PROPOSED *VOIR DIRE*

Mr. Zackary Ellis Sanders, by and through counsel, respectfully submits the attached revised written questionnaire to be completed by jurors in advance of oral *voir dire*, as a pre-screening tool to be used in addition to the questions this Court intends to ask prospective jurors. A proposed Prospective Juror Questionnaire is attached for the Court's consideration.

For all of the reasons previously stated in Dkt. 157, Mr. Sanders respectfully requests that the Court incorporate the attached specialized, initial questionnaire into *voir dire*, conduct *voir dire* in a way that best promotes disclosure, candor, and the health of prospective jurors, and allows for sequestered, individual *voir dire* for jurors who answer yes to particularly sensitive or potentially painful or embarrassing questions.

Dated: October 14, 2021.

Respectfully submitted,

/s/
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Counsel for Defendant Zackary Ellis Sanders

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October 2021, the foregoing was served electronically on the counsel of record through the U.S. District Court for the Eastern District of Virginia Electronic Document Filing System (ECF) and the document is available on the ECF system.

/s/
Nina J. Ginsberg

Prospective Juror Questionnaire

This questionnaire has been approved by the Court and is to be filled out by each prospective juror in this case. This information is designed solely to save time and assist the Court and the parties in selecting jurors for trial. This information will not be used for any other purpose except to select a jury.

You are given more privacy by answering questions in this questionnaire. You are under oath and are required to answer the questions truthfully. The information provided is exclusively for selection of jurors. Your answers must be complete and accurate.

You are not to discuss your answers with anyone while completing this questionnaire, including your fellow potential jurors. It is important that your answers are yours and yours alone.

These questions are not meant to invade your privacy, but to help select a fair and impartial jury in this case. There may be some questions that touch on matters you consider personal, private, or otherwise sensitive. To select a fair and impartial jury, however, it is important that the Court and the lawyers have your complete and truthful answers to these kinds of questions.

Do not leave any questions blank. If you do not understand the question or do not know the answer, please write that response in the space provided.

PART I

Name:

[Standard demographic information]

PART II

1. If your religious beliefs play a guiding role in your life, do you believe that your religious beliefs may play a role in determining Mr. Sanders's guilt or innocence?

2. Do you think that employers should be able to refuse to hire someone because of the person's sexual orientation or gender identity? If yes, please explain.

3. Are you uncomfortable with same-sex couples raising children together? If yes, please explain.

4. Would you feel uncomfortable if you had to work closely with someone who was lesbian, gay, bisexual, or transgender? If yes, please explain.
5. Do you have any close friends who are lesbian, gay, bisexual, or transgender?
6. Do you believe that homosexuality is mainly a personal choice? If yes, please explain.
7. Do you have children? If yes, please state their age and gender.
8. Do you think that a person's sexual orientation should ever play a role in how a person is judged?
9. You will hear testimony about Bondage, Discipline/Domination, Submission/Sadism and Masochism ("BDSM") in this case. BDSM includes practices such as binding, gagging, restraint, whipping and flogging that, if consensual, you may find distasteful, but are legal to engage in. Do you believe you would have a bias against a person who enjoys and participates in BDSM, or would make assumptions about that person that you would not make about a person who did not enjoy or participate in BDSM practices?
10. This case involves allegations that online communications of a sexual nature were exchanged between individuals of the same sex, that online communications of a sexual nature involved BDSM, and that the online communications included the transmission and receipt of child pornography. Is it possible that the subject matter of this case would affect your ability, or make it difficult to sit as a fair and impartial juror in this case?

11. Do you have a distaste for people who enjoy and participate in what you would consider kinky sexual practices or fetishes? Do you believe that they are more likely to lie or commit crimes?
 12. Do you think that teenagers or adolescents are more likely than adults to be honest?
 13. Have you or has anyone close to you accused someone of sexual assault, molestation, rape, or any other sexual offense?
 14. Have you or has anyone close to you ever experienced child sexual abuse or exploitation or been a victim of child pornography offenses?
 15. Have you or has anyone close to you belonged to, worked for, or donated time or money to an organization that provides services to children who have experienced sexual abuse; that investigates child sexual abuse or child pornography; or that assists victims of crimes?
 16. Do you think that someone facing multiple criminal charges probably did something wrong?
 17. Do you think that someone facing multiple criminal charges involving children probably did something wrong?

18. Have you or has anyone close to you ever worked in law enforcement or assisted law enforcement (*e.g.*, as a witness, or by reporting a crime)?

19. Would you have trouble crediting testimony or evidence that is contradicted by the testimony of a police officer or FBI agent?

20. Do you think that adults should not be able to own adult pornography? If yes, please explain.

21. Do you think that watching adult pornography is morally wrong or distasteful, or would you have a bias or prejudice against someone who consumes adult pornography? If yes, please explain.

22. Do you think that the practice of sexting (sending and/or receiving nude or sexually explicit photos via a mobile device) is morally wrong or distasteful, or would you have a bias or prejudice against someone who engages in sexting with another adult? If yes, please explain.

23. Do you believe that high schoolers commonly sext?

24. Do you associate homosexuality with child pornography or any other crime? If yes, please explain.

25. Do you think that people who use privacy-protective technologies, such as encrypted methods of communication or the Tor browser, probably have something to hide? If yes, please explain.

26. Have you ever used mobile messaging applications such as Snap Chat, Instagram, Telegram or Kik?

27. This case involves BDSM and individuals who are alleged to be minors. Would this subject matter prevent you from fairly judging the evidence in this case?

28. During this case you will be asked to view images and videos that the government contends are examples of child pornography. Do you think that looking at these images and videos would affect your ability or make it difficult to be a fair and impartial juror in this case?

29. Do you think that a defendant is more likely to be guilty if they don't take the stand and tell their side of the story?

30. Do you think that a defendant should have to prove their innocence?

31. In the past 10 days, have you been exposed to someone who has tested positive for COVID-19, experienced symptoms of COVID-19 or flu (such as a fever, body aches or chills, coughing, or difficulty breathing), or tested positive for COVID-19? If so, have you since received a negative COVID-19 test result?

32. Are you experiencing any problems that would make it difficult for you to concentrate on this case?

33. Do you have any private reasons that you think would prevent you from being fair and impartial in this case?

I declare under the penalty of perjury that I have given true and correct answers to the preceding questions.

Juror's Signature: _____ Date: _____